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TECHNOLOGY CENTER 3600

Stephen E. Feldman, P.C.
12 East 41st Street
New York, NY 10017

In re Application of
Joseph B. Rissin
Application No. 09/800,828
Filed: March 8, 2001
For: EAR-NUT WITH HANDLES

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on papers filed August 22, 2002, which are being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

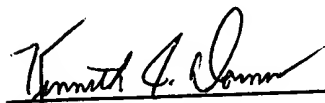
A review of the file record indicates that an Office action was mailed on January 24, 2002 wherein a three-month shortened statutory period for response was set. Since no timely response to the January 24, 2002 Office action was received, the application is technically abandoned, although a Notice of Abandonment has yet to be mailed.

The papers filed August 22, 2002 consist of an amendment which bears a Certificate of Mailing attesting to the deposit of the correspondence with the United States Postal Service on April 24, 2002. Had this correspondence reached the United States Patent and Trademark Office, it would have been considered as timely filed. However, the correspondence submitted via mail has not been matched with the file. The papers received on August 22, 2002 were submitted via facsimile transmission and are apparently a copy of the correspondence sent on April 24, 2002.

Applicant may rely on the Certificate of Mailing procedures set forth in 37 CFR 1.8 to establish proof of timely filing. However, 37 CFR 1.8(b)(3) requires that the person who mailed the prior correspondence attest on a personal knowledge basis to the previous timely mailing. Such statement has not been submitted. For this reason, the holding of abandonment will not be withdrawn.

The application is being forwarded to the examiner to prepare a Notice of Abandonment.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petition desire reconsideration, he should submit a renewed petition which addresses the deficiency noted above.



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Kjd: 8/27/02